UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,926	01/10/2001	Stuart Mandel Garland	47-10	8084

7590   09/24/2004

Werner Ulrich
434 Maple Street
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EXAMINER
DUONG, THOMAS

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.</td><td>Applicant(s)</td></tr>
<tr><td>09/757,926</td><td>GARLAND ET AL.</td></tr>
<tr><td>Examiner</td><td>Art Unit</td></tr>
<tr><td>Thomas Duong</td><td>2143</td></tr>
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 June 2004*.

2a)☐ This action is **FINAL**.　　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 7-11* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 1-04)　　　　　　Office Action Summary　　　　　　Part of Paper No./Mail Date 09152004

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

2.   *Claims 1-5 and 7-11* are rejected under 35 U.S.C. 103(a) as being unpatentable over

Gyllstrom (US005179708A) and in view of Luna et al. (US005787155).

3.   With regard to *claims 1 and 7,* Gyllstrom reference discloses,

- *if the customer is idle, delivering a message directly to the customer;* (Gyllstrom,

    col.1, lines 57-65; fig.4; Gyllstrom discloses a method that when a message is

    received on a processor (i.e. customer) a message-delivery function determines

    whether the message's priority is lower than the priority of a process presently

    running on the processor. If not, the message is immediately delivered to the

    destination process; if so, the message is stored in a queue corresponding to the

    message's priority to be delivered at a later time)

- *if the customer is busy receiving another message, determining a precedence*

    level for a received message, and storing the received message in storage

    associated with that precedence level; (Gyllstrom, col.1, lines 57-65; col.4, lines

    21-25, lines 36-42; fig.4; Gyllstrom discloses a method that when a message is

    received on a processor (i.e. customer) a message-delivery function determines

    whether the message's priority is lower than the priority of a process presently

running on the processor. If not, the message is immediately delivered to the destination process; if so, the message is stored in a queue corresponding to the message's priority to be delivered at a later time)

- *subsequently, when the customer is idle, delivering messages to the customer from storage of higher precedence level before delivering messages from storage of lower precedence level.* (Gyllstrom, col.4, line 58 – col.5, line 2; fig.5; Gyllstrom discloses a method that when a message is received on a processor (i.e. customer) a message-delivery function determines whether the message's priority is lower than the priority of a process presently running on the processor. If not, the message is immediately delivered to the destination process; if so, the message is stored in a queue corresponding to the message's priority to be delivered at a later time)

However, Gyllstrom reference does not explicitly disclose,

- *if the customer is busy receiving said another message, notifying the customer that said message is being received by a system for storing received messages; and*

Luna teaches,

- *if the customer is busy receiving said another message, notifying the customer that said message is being received by a system for storing received messages; and* (Luna, abstract; col.11, line 65 – col.12, line 6; Luna teaches of notifying the receiving station (i.e. customer) that there is an incoming priority data message to be received)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Luna reference with Gyllstrom reference to

enhance the system by ensuring that incoming priority data messages are not lost or
delayed by notifying the receiving station that there is priority data messages
awaiting to be processed.

4.   With regard to *claims 2, 4, 8 and 10*, Gyllstrom and Luna references disclose the
invention substantially as claimed,

     See *claims 1 and 7* rejection as detailed above.

     Furthermore, Gyllstrom teaches,

-    *wherein certain classes of messages also have a preemption level, wherein if
  said customer receives a message with a preemption level, the reception of said
  another message is interrupted if the precedence level of the received message
  is above a precedence level of said another message currently being received by
  the customer.* (Gyllstrom, col.4, lines 28-36; fig.4; Gyllstrom discloses a method
  that when a message is received on a processor (i.e. customer) a message-
  delivery function determines whether the message's priority is lower than the
  priority of a process presently running on the processor. If not, the message is
  immediately delivered to the destination process; if so, the message is stored in a
  queue corresponding to the message's priority to be delivered at a later time)

5.   With regard to *claims 3, 5, 9 and 11*, Gyllstrom and Luna references disclose the
invention substantially as claimed,

     See *claims 1-2 and 7-8* rejection as detailed above.

     Furthermore, Luna teaches,

-    *wherein the customer is first notified that the reception of said another message
  is about to be interrupted, and can signal that the customer does not wish to
  receive the preempting message before reception of said another message is*
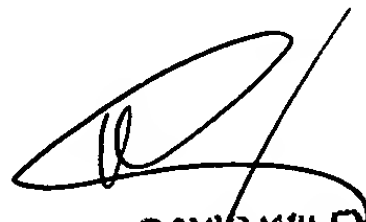
completed. (Luna, abstract; col.11, line 65 – col.12, line 6; Luna teaches of

notifying the receiving station (i.e. customer) that there is an incoming priority

data message to be received and is allowed to terminate or continue with the

processing of the current message)

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure:

- Borras et al. (US004716407)

- Jardine (US005619647A)

7. Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Thomas Duong whose telephone number is 703/305-1886 or

571/272-3911 (after 11/01/2004). The examiner can normally be reached on M-F

7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, David A Wiley can be reached on 703/308-5221 or 571/272-3923

(after 11/01/2004). The fax phone numbers for the organization where this application or

proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306

for After Final communications. Any inquiry of a general nature or relating to the status

of this application or proceeding should be directed to the receptionist whose telephone

number is 703/305-3900 or 571/272-2100 (after 11/01/2004).

Thomas Duong (AU2143)

September 15, 2004

DAVID WILEY
SUPERVISORY PATENT EXAMINER
2100